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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,581	02/10/2004	Pawel Wrobel	LHUD-04601-UUS	2146
33794	7590	05/23/2008		
MATTHIAS SCHOLL 14781 MEMORIAL DRIVE SUITE 1319 HOUSTON, TX 77079				
EXAMINER				
CHANKONG, DOHIM				
ART UNIT		PAPER NUMBER		
2152				
NOTIFICATION DATE		DELIVERY MODE		
05/23/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/775,581

Applicant(s)

WROBEL, PAWEL

Examiner

DOHM CHANKONG

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

- 1> This action is in response to Applicant's amendment, filed 1.30.2008. Claims 1-5 are cancelled. Claims 6-19 are added. Claims 6-19 are presented for further examination.
- 2> This is a final rejection.

Response to Arguments

- 3> Applicant's primarily argues that Stalker fails to disclose the limitation describing retrieving data from a carousel of objects, in a sequence in which they are available from the moment of reception start, regardless of the modules hierarchy in the carousel of objects. Applicant cites paragraphs 0015 and 0020 in Stalker in arguing that Stalker discloses "a mandatory dependency on the directory module when considering the order of data retrieval." Applicant's arguments have been considered but are not persuasive for the following reasons.

First, Applicant's arguments are not consistent with what is being claimed. Applicant argues that Stalker's retrieval requires dependency on the directory module. To overcome this alleged teaching however, Applicant's claims specify that the retrieval occurs "regardless of the modules hierarchy in the carousel." Applicant seems to equate Stalker's directory module with the claimed modules hierarchy however it is not clear from either the claims or Applicant's arguments the reasoning for this comparison. Since it is not clear that the claimed "modules hierarchy" is in reference to Stalker's teaching of a directory module, Applicant is arguing limitations that are not in the claims.

Applicant's claims seem to suggest that the retrieval occurs regardless of the module's location (its hierarchy) in the carousel but the claims do not proscribe retrieving data based on referring to a directory to determine whether the module exists as is taught in Stalker. The claims would benefit from further clarification as to what is meant by "modules hierarchy" because there is no discussion of this term in Applicant's specification.

Second, Stalker discloses the limitation as it is currently written. Stalker discloses retrieving, according to the parameters [0019], data, from the carousel of objects, in a sequence in which they are available from the moment of reception start, regardless of the modules hierarchy in the carousel of objects [0023]. Stalker discloses each packet contains an identifier that links the module with the specific application. Stalker's identifier reads on Applicant's claimed parameter. Stalker also discloses retrieving data sequentially; for example, if the receiver is connected to the data stream as block 4 is being broadcast, the receiver "reads the data in each successive block that is broadcast" and retrieves only the data with the corresponding parameter or packet identifier. Therefore, Stalker's retrieval occurs regardless of the modules hierarchy in the carousel but is instead dependent on the parameters associated with the data.

Based on the foregoing, Stalker discloses the limitations as they are currently written. The claims should be amended to clarify and further describe the retrieval process and more specifically what is meant by "modules hierarchy." Because Applicant is arguing limitations not in the claims, Applicant's arguments that Stalker does not teach retrieving data from a carousel regardless of the modules hierarchy in the carousel is not persuasive.

Specification

4> The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 13 discloses “a computer-readable memory,” “a computer program” and “a processor” that executes the computer program. Applicant's specification does not provide any antecedent basis for these terms.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5> Claims 6-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

While “there is nothing inherently ambiguous or uncertain about a negative limitation,” “any negative limitation or exclusionary proviso must have basis in the original disclosure.” MPEP §2173.05(1). The mere absence of a positive recitation is not basis for an exclusion. Id. And finally, any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 6 and 14 recite retrieving data containing modules regardless of the modules hierarchy in the carousel of objects. The limitation “regardless of modules hierarchy in the carousel of objects” is a negative limitation since it attempts to exclude a certain characteristic of the prior art product. However, the limitation lacks any basis in Applicant's specification as there is no description whatsoever that expressly describes that the retrieval process operates independently of the modules hierarchy.

Applicant cites Figures 2 and 5 and corresponding descriptions as support. However these figures merely describe the retrieval process and do not mention basing (or not basing) the retrieval on the modules hierarchy. The specification is simply silent as to this limitation. Moreover, there does not seem to be any express discussion of a hierarchy of modules in Applicant's specification which instead refers to a hierarchy of objects and a hierarchy of directories. For this reason, claim 6's preamble also lacks proper written support because it recites that the carousel is “in a form of hierarchical modules.”

Based on the foregoing, claims 6 and 14 fail to comply with the written description requirement. Claims 7-13 and 15-19 are rejected based on their dependency on the deficient claims. It is noted that Applicant's specification does specify that the “data belonging to this carousel are retrieved in the sequence in which they are broadcasted in the stream and not in line with the modules or modules content sequence.” However, it is not clear that the amended limitation can be interpreted to read on this disclosure. Therefore, Applicant's claims should be amended to clearly reflect what is described in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6> Claims 6-19 are also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 and 14 recite retrieving data from a carousel in a sequence in which they are available and regardless of the modules hierarchy. It is unclear what is meant by "regardless of the modules hierarchy." Applicant's specification recites retrieving data from the carousel "not in line with the modules or modules content sequence" but this fails to provide any description for "modules hierarchy." The claims would benefit from further clarification to describe the retrieval process and its relation to the modules. The claims would also benefit by using terms used in the specification as "hierarchical modules" and "modules hierarchy" are neither expressly disclosed or discussed.

Claim 6 is rejected for lacking proper antecedent basis: "the modules hierarchy" and "the file system of the receiver." While claim 6 does recite "the carousel in a form of hierarchical modules," it is far from clear that "modules hierarchy" is intended to refer to "hierarchical modules."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an

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application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7> Claims 6, 7, 9-15, and 17-19 are rejected under 35 U.S.C. §102(e) as being anticipated by Stalker, U.S Patent Publication No. 2002|0091816.

8> As to claim 6, Stalker discloses a method for reception of software of a receiver, wherein the software is broadcasted in a data stream, in a form of a carousel of objects, conveyed in the carousel in a form of hierarchical modules, the method comprising the steps of:

connecting the receiver to the data stream [0006, 0017];

starting reception of data conveyed in the data stream [0015-0017 : Stalker's client receives data blocks from the data carousel];

identifying parameters of a carousel of objects to be retrieved [0019 : each packet contains an identifier that links the module with the specific application. Stalker's identifier reads on Applicant's claimed parameter];

retrieving, according to the parameters [0019], data, from the carousel of objects, in a sequence in which they are available from the moment of reception start, regardless of the modules hierarchy in the carousel of objects [0023];

creating modules from the retrieved data, after receiving all data [Figure 5B : decision block labeled as "Have Read All Blocks?" | 0027];

obtaining content of the modules [0016]; and

storing the content in the file system of the receiver [0031].

9> As to claim 7, Stalker discloses a step of setting a packets filter according to the identified parameters [0016, 0021, 0022 : Stalker discloses installing filters to more efficiently process incoming data blocks within the broadcasted data of the carousel].

10> As to claim 9, Stalker discloses the data are received in a form of packets and from the packets of data stream a section of the packet is retrieved, which includes the module or its part of the carousel of objects [0018], whereas it is next checked if the section includes the required data, which are written in the file system of receiver [0023, 0031], at the same time the completeness of the retrieved carousel of objects is checked [0027 : determining whether all the data blocks have been read].

11> As to claim 10, Stalker discloses the data, retrieved from the data stream, related to the defined carousel of objects, are broadcasted in packets with a specific PID number [0019 : each packet contains an identifier that links the module with the specific application. Stalker's identifier reads on Applicant's claimed PID number].

12> As to claim 11, Stalker discloses wherein connecting the receiver to the data stream is executed when an application of the receiver executes a request, which defines a PID number of packets [0019], in which the carousel of objects, requested by the application, is broadcasted [0006, 0016].

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13> As to claim 12, Stalker discloses wherein connecting the receiver to the data stream is executed when an applications manager attempts to start an application [0019] where : Stalker's interest manager reads on Applicant's claimed applications manager], which is signaled in a given service together with a PID number of packets [0019], in which the carousel of objects of the signaled application is broadcasted [0028].

14> As to claims 13 and 14, they are rejected for at least the same reasons set forth for claim 6.

15> As to claims 15 and 17-19, they are rejected for at least the same reasons set forth for claims 7 and 9-12.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

16> Claims 8 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Stalker, in view of Chari, U.S Patent No. 6,038,319.

17> As to claims 8 and 16, Stalker does not expressly disclose decompressing the modules after the modules have been created from the retrieved data. In the same field of invention, Chari is directed towards a system for sharing television applications based in part on using data carousels for broadcasting modules to receiving stations [abstract]. Like Stalker, Chari discloses assembling modules from received packets [Figure 4 | column 6 «lines 39-43»]. However, Chari further discloses decompressing the modules after assembling them [column 5 «lines 4-6» | column 11 «lines 18-22»].

It would have been obvious to one of ordinary skill in the art to have modified Stalker's method with the decompression functionality taught in Chari. Compression and decompression technology was well known in the art at the time the invention was made for providing enhanced delivery by conserving bandwidth [see Chari, column 4 «lines 10-12»]. Thus, one would have been motivated to combine Stalker and Chari to improve the delivery capability of the modules over the network.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. C./
Examiner, Art Unit 2152
/John Follansbee/

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Supervisory Patent Examiner, Art Unit 2151

Application Number**Application/Control No.**

10/775,581

Examiner

DOHM CHANKONG

**Applicant(s)/Patent under
Reexamination**

WROBEL, PAWEL

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